

Senate Study Bill 3071 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON HOGG)

A BILL FOR

1 An Act prohibiting employers from refusing to hire job
2 applicants based on certain criminal history and providing
3 penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 84A.5, subsection 4, Code 2014, is
2 amended to read as follows:

3 4. The division of labor services is responsible for the
4 administration of the laws of this state under chapters 88,
5 88A, 88B, 89, 89A, 89B, 90A, 91, 91A, 91C, 91D, 91E, 91F, 92,
6 and 94A, and section 85.68. The executive head of the division
7 is the labor commissioner, appointed pursuant to section 91.2.

8 Sec. 2. Section 91.4, subsection 2, Code 2014, is amended
9 to read as follows:

10 2. The director of the department of workforce development,
11 in consultation with the labor commissioner, shall, at the
12 time provided by law, make an annual report to the governor
13 setting forth in appropriate form the business and expense of
14 the division of labor services for the preceding year, the
15 number of remedial actions taken under chapter 89A, the number
16 of disputes or violations processed by the division and the
17 disposition of the disputes or violations, and other matters
18 pertaining to the division which are of public interest,
19 together with recommendations for change or amendment of the
20 laws in this chapter and chapters 88, 88A, 88B, 89, 89A, 89B,
21 90A, 91A, 91C, 91D, 91E, 91F, 92, and 94A, and section 85.68,
22 and the recommendations, if any, shall be transmitted by the
23 governor to the first general assembly in session after the
24 report is filed.

25 Sec. 3. NEW SECTION. 91F.1 Definitions.

26 As used in this chapter:

27 1. "Arrested" means the same as defined in section 804.5 and
28 includes taking into custody pursuant to section 232.19.

29 2. "Commissioner" means the labor commissioner, appointed
30 pursuant to section 91.2, or the labor commissioner's designee.

31 3. "Convicted" means a finding of guilt, irrespective of
32 imposition or execution of any sentence; a final and valid
33 admission of guilt or a guilty plea; an entry of judgment of
34 conviction; an adjudication of delinquency, including but not
35 limited to a juvenile who has been adjudicated delinquent, but

1 whose juvenile court records have been sealed under section
2 232.150; or a plea of guilty or consent agreement related to
3 a delinquency petition; and means any comparable conviction
4 that has been entered under prior law, or in a state, federal,
5 military, or foreign court.

6 Sec. 4. NEW SECTION. **91F.2 Prohibited hiring practices.**

7 1. A person shall not refuse to hire an applicant for
8 employment because the applicant has been arrested for or
9 convicted of a public offense more than ten years before the
10 date of application for employment unless the elements of the
11 public offense are substantially related to the qualifications
12 to perform employment in the particular occupation in which the
13 applicant is applying for employment.

14 2. A person shall not directly or indirectly advertise or
15 in any other manner indicate or publicize that an individual
16 arrested for or convicted of a public offense more than ten
17 years before the date of application for employment, unless
18 the elements of the public offense are substantially related
19 to the qualifications to perform employment in the particular
20 occupation in which the applicant is applying for employment,
21 is unwelcome, objectionable, not acceptable, or not solicited
22 for employment.

23 Sec. 5. NEW SECTION. **91F.3 Penalties.**

24 A person violating this chapter shall be guilty of a simple
25 misdemeanor, and the commissioner shall assess a civil penalty
26 against the person in an amount not to exceed two hundred fifty
27 dollars for each violation. Civil penalties recovered pursuant
28 to this section shall be remitted by the commissioner to the
29 treasurer of state for deposit in the general fund of the
30 state.

31 Sec. 6. NEW SECTION. **91F.4 Rules.**

32 The commissioner shall adopt rules to administer this
33 chapter.

34 Sec. 7. NEW SECTION. **91F.5 Inapplicability.**

35 This chapter shall not be construed to prohibit hiring

1 practices otherwise required by law.

2 EXPLANATION

3 The inclusion of this explanation does not constitute agreement with
4 the explanation's substance by the members of the general assembly.

5 This bill prohibits a person from refusing to hire an
6 applicant for employment because the applicant has been
7 arrested for or convicted of a public offense more than 10
8 years before the date of application for employment unless
9 the elements of the public offense are substantially related
10 to the qualifications to perform employment in the particular
11 occupation in which the applicant is applying for employment.
12 The bill also prohibits a person from directly or indirectly
13 advertising or in any other manner indicating or publicizing
14 that an individual arrested for or convicted of a public
15 offense more than 10 years before the date of application
16 for employment, unless the elements of the public offense
17 are substantially related to the qualifications to perform
18 employment in the particular occupation in which the applicant
19 is applying for employment, is unwelcome, objectionable, not
20 acceptable, or not solicited for employment.

21 The bill defines "arrested" as the same as defined in Code
22 section 804.5, the taking of a person into custody when and
23 in the manner authorized by law, including restraint of the
24 person or the person's submission to custody, as well as taking
25 a child into custody pursuant to Code section 232.19. The
26 bill defines "convicted" as a finding of guilt, irrespective
27 of imposition or execution of any sentence; a final and valid
28 admission of guilt or a guilty plea; an entry of judgment of
29 conviction; an adjudication of delinquency, including but not
30 limited to a juvenile who has been adjudicated delinquent,
31 but whose juvenile court records have been sealed under Code
32 section 232.150; or a plea of guilty or consent agreement
33 related to a delinquency petition; and means any comparable
34 conviction that has been entered under prior law, or in a
35 state, federal, military, or foreign court.

S.F. _____

1 A person violating the bill is guilty of a simple misdemeanor
2 and is subject to a civil penalty in an amount not to exceed
3 \$250 to be assessed by the labor commissioner. A simple
4 misdemeanor is punishable by confinement for no more than 30
5 days or a fine of at least \$65 but not more than \$625 or by
6 both.

7 The labor commissioner is directed to adopt rules to
8 administer the bill.

9 The bill is not to be construed to prohibit hiring practices
10 otherwise required by law.